



APPROVED

KITTERY PORT AUTHORITY

May 1, 2014 Meeting Minutes
Council Chambers, Town Hall

Members Present: Bob Melanson, Barry Bush, Vice Chairman, Kelly Philbrook, Tom Smith, Steve Lawrence, Dan Arbo (6:20 p.m.)

Members Absent: Ray Grenier

Staff: Harbormaster Mike Blake

The meeting of May 1, 2014 was called to order at 6:02 p.m.

1. Pledge of Allegiance

2. Minutes:

Minutes: April 3, 2014

Mr. Bush moved to approve as presented

Mr. Melanson seconded

Motion carried unanimously

Minutes: April 17, 2014

Mr. Smith moved to approve as presented

Mr. Lawrence seconded

Motion carried unanimously

3. Public Segment

– Peter Walsh, Kittery Point: Concerned about the KPA 2014 business plan as presented to Council, specifically becoming a self-sufficient business enterprise, and public funds are being utilized to enhance the transient facility. Portsmouth Yacht Club has 6 rental moorings in Pepperrell Cove, presenting a competition to the BIG project's transient moorings. Has the order by the previous Kittery Harbormaster to the Yacht Club to leave Pepperrell Cove been reversed? Mr. Melanson: This order was not upheld, but these moorings will be moved to a location yet to be determined. Peter Walsh: The KPA has a responsibility to the tax payers. If the PYC is allowed to remain, it is in violation of the FNP rules, as a fee structure has been revised to apply to all users of Pepperrell Cove to be in compliance with the FNP. If an exception is made for the PYC, why not make an exception to the Kittery tax payers and residents? The decision should be made by the full KPA membership.

– Milton Hall: Traip Ramp - Owner is selling her property and claims a ROW to the ramp, but this has not been confirmed. The deed should be reviewed to determine ownership. The 2003 Yamaha engine on new boat has a corrosion problem and this should be looked into.

– Ken Lamont, Kittery: Was unaware of the Harbor Water Usage Fee and has a problem with this fee, and feels the mooring owners pay double while others may get around the fee altogether.

– Mr. Melanson: Changes to the fee structure were work shopped, properly noticed and public hearings held. There was a \$3,000 deficit last year.

– Mr. Smith: Those keeping boats on the dock will be charged the water usage fee. There was no further public comment.

4. Harbor Master Report & Expense/Income YTD

- Harbormaster skiff painted
- Frisbee main float out for fishermen

- Septic tank is in;
- Purchased and installed barricades at Government Street pier for safety;
- Most mooring fees (out of 564) have been collected, with 20-30 remaining to be collected;
- Wait list updated and assignments being made;
- Financial: Income of \$99,693 collected against a \$108,091 operating budget. Income does not reflect upcoming day passes and transient moorings and slip charges.
Anticipated revenue of \$130-\$140,000 against expenses of approximately \$90,000.
Discussion followed regarding assignment of moorings, including temporary and guest moorings, and whether they should be eliminated. This issue will be discussed further in a workshop will be scheduled.
- Boat acquisition: Mr. Smith: Once invoice and bill of sale received, the Town Manager will arrange for payment.

5. Marinas Piers & Floats

- Thomas Ellis, 144 Whipple Rd, Map 10 Lot 3, proposes to construct a 6 x 45 pier with associated gangway and float system. Agent is Zachary Taylor, Riverside Pickering Marine. Review, schedule site walk and Public Hearing.
Mr. Taylor summarized the proposal. The intent is to provide better water access; there is an existing 3'x24' gangway and 8'x16' float to be removed, resulting in 460' of new impact. Abutter sign-off has been received and the application has been submitted to the Bureau of Lands, ACOE, DEP, Submerged Lands, Indian tribes and Historic Preservation Commission. No land conveyance is required according to Submerged Lands. Agent will clarify whether this is a seasonal float, The ASA summary was provided to Mr. Taylor.

Ken Lamont: Noted his support for the proposal noting the proposal does not block a view or navigation. This project will be done well.

Ms. Philbrook moved to schedule a Public Hearing for the application of Thomas Ellis, 144 Whipple Road, for the June 2014 meeting.

Mr. Bush seconded

Motion carried unanimously

Site walk scheduled for Thursday, May 15; 2014 at 5:00 p.m.

- Brian Gregg, 4 Captains Way, Map 71 Lot 1-3, proposes to construct a 3' x 20' seasonal gangway and a 10' x 20' seasonal float located by moorings along the owners 184' approx. frontage on Weir Creek. Agent is Zachary Taylor of Riverside Pickering Marine. Review, schedule site walk and Public Hearing.

Mr. Taylor summarized the application. No DEP submittal is required; applications to the ACOE Indian tribes and historic preservation have been submitted.

Ms. Philbrook moved to schedule a Public Hearing for the application of Brian Gregg, 4 Captains Way, for the June 2014 meeting.

Mr. Arbo second

Motion carried unanimously

Site walk scheduled for Thursday, May 15 at 6:00 p.m. Mr. Lawrence will visit the site independently.

6. Pepperrell Pier Project Status

- Construction Status:
 - Mr. Smith: Electrical and water pipes are in; wiring scheduled for May 2; panels located on shed; holding tank installed; next meeting not yet scheduled; timbers have not been received.
 - Fisherman's Ramp: Funds are not available to retain the ramp; this cannot be addressed this year.

Dick Draper, Kittery Point: This is unfortunate, as it jeopardizes the working waterfront. If this is not done now, it probably will not be done. This will be a major issue with the number of traps (8,000) and fishermen using the float.

Mr. Lawrence agreed.

Mark Drummond, Kittery Point: Agrees, and is disappointed with outcome. This is a busy place in the spring and fall and foresees nothing but problems.

Mr. Melanson asked Mr. Lawrence, Mr. Draper, Ms. Philbrook and Harbormaster Blake to form a subcommittee to address and mitigate this issue for the next season, and remain as an ongoing agenda item.

Ms. Philbrook: It is the responsibility of the KPA to find the funds to fix this problem; a grant was awarded in 1996 for this pier (including Town funds) to "ease the conflicts between fishermen and recreational boaters on the main pier", and supported by the Comprehensive Plan; recreational boater traffic should be encouraged to move to the other pier. A resolution needs to be designed and engineered. What can be done this year?

Mr. Lawrence: CIP funds should be re-directed, i.e.: eliminating the kayak rack at Rice Avenue.

Discussion followed regarding use by fishermen for this season during May and June and conflict with recreational boating. Mr. Draper: His only request was to keep the ramp at the end of the dock; the proposed ramp is too long to slide traps; the time is now to fix the problem; if a reasonable solution can be found, will the KPA support the solution? Fishermen use the pier from May through December. Mr. Smith: We need engineering review to determine whether this can be done. Ms. Philbrook: This is the second project in two years where the fishermen have been an afterthought. The MDOT stated the ramp could remain fishermen use.

Mr. Melanson moved to release \$1,000 of KPA funds for engineering review to address this.

Ms. Philbrook second

Motion carried unanimously

Mr. Arbo moved to retain the ramp, associated floats and pilings be retained and stored in the interim, pending a solution.

Mr. Lawrence seconded

Motion carried unanimously

- Operations Plan: No discussion
- Marketing Plan - There has been no formal direction; discussion has been to utilize electronic media via websites, but no funds have been discussed or budgeted; no plans are in place for print media, and it is now too late in the season. Harbormaster Blake will work with Councilor Denault to work on website advertising and linkage.
- Insurance coverage: Coverages need to be reviewed and increased as needed; currently there is general liability, workman's compensation for non-employees, and errors and omissions.

7. Wave Attenuation Project: NH DEP met with ACOE and asked Kittery for a letter of interest. A letter will be prepared.

8. Shore & Harbor Plan-Peter Walsh: A Public Hearing with the Planning Board is scheduled for May 22, 2014, prior to submittal to Council; the plan has been posted on the Town's website;

9. Isles of Shoals Moorings & Rules and Regulations Changes

Mr. Smith: Meeting with the Foyes and others was constructive; recommendation to amend the Rules and Regulations has been proposed as follows:

IS = Isles of Shoals ~~(Landowner or Lessee only)~~

If at the time an individual applies for a mooring site, there is no waiting list for that area ~~(except at the Isles of Shoals where the applicant must be a landowner or lessee to be assigned a mooring site)~~, this individual shall be assigned a mooring site without regard to allocation provisions of these Rules and Regulations.

Add:

e. Whereas all the Isles of Shoals has water access only, Isles of Shoals property owners, under the jurisdiction of the Town of Kittery, shall be eligible for a mooring at the Isles of Shoals as defined herein, regardless of shore frontage, lack of same or lot size.

Mr. Smith provided the names of Isles of Shoals mooring wait list holders to Mr. Lawrence. Six moorings would be added to accommodate the waiting list. Harbormaster Blake: This will keep costs down, provide an organized method of placement, and not interfere with fishermen. Ms. Philbrook: This has been a regulation for years, why change now? Mr. Smith: This area should not be treated any different than the rest of the harbors in Town. Attorney McEachern would have a hard time defending this restriction on the Isles of Shoals. Milton Hall: Policy for Isles of Shoals was set in 1972; in 1992 a motion "as a stated policy of the KPA the moorings will be granted to landowners at the Isles of Shoals"; in 1997, "lessee" was added, and the waiting list removed, so there should be no waiting list for the Isles of Shoals; Mr. Smith stated in 2004-2005 that "anchors get hung up on old moorings or lobster traps, complaints about fecal matter; Kittery should have 25-30 moorings out there"; the proposed language is incorrect as state statute requires a minimum of 100 feet in frontage and 20,000 sf lot; if Appledore is developed there would be even more moorings; in the Shore and Harbor Plan it is noted that demand for moorings at this location often exceed supply, but it does not appear that the harbor can accommodate additional sheltered moorings. Mr. Melanson: MRSA Title 38 does not allow the Town to limit moorings to landowners only; the authority to provide moorings is through the Harbormaster, by law. Mr. Lawrence: Asked Mr. Foye about the partying and loud noises occurring in the area. Lobstermen and landowners should receive moorings. Bob Foye: The number of moorings is of concern; there should be a cap established on the number of moorings allowed; it can't be an open-ended policy; if other yacht clubs have moorings, Great Cove should have one mooring. Mr. Smith: It is the Harbormaster's responsibility to place limits on moorings based on space available; if Appledore is developed, there must be a way to reach the property by boat. Mr. Melanson: Should the existing moorings be grandfathered in an amendment? Discussion followed regarding caps in an FNP and whether the Isles of Shoals is in the FNP and the authority of the KPA and Harbormaster. Harbormaster Blake: lines of communication have been established with those in the Isles of Shoals; he would not create a negative situation. Mr. Hall: others have been turned down and now you're contemplating allowing those on a wait list to be provided a mooring; can't change the rules now.

Mr. Smith moved to hold a Public Hearing to amend the Rules and Regulations regarding the Isles of Shoals moorings, as follows:

IS = Isles of Shoals ~~(Landowner or Lessee only)~~

If at the time an individual applies for a mooring site, there is no waiting list for that area ~~(except at the Isles of Shoals where the applicant must be a landowner or lessee to be assigned a mooring site)~~, this individual shall be assigned a mooring site without regard to allocation provisions of these Rules and Regulations.

Add: e. Whereas all the Isles of Shoals has water access only, Isles of Shoals property owners, under the jurisdiction of the Town of Kittery, shall be eligible for a mooring at the Isles of Shoals as defined herein, regardless of shore frontage, lack of same or lot size.

Mr. Bush seconded

Motion carried unanimously

10. New & Old Business

Mr. Melanson: Change to Title 16 regarding tight tanks in the shoreland zone as recommended by the DEP.

Mr. Lawrence:

- Remove Government St. CIP (\$25,000) for launch service ramps and floats: Were told by Zach Taylor this would not work at this location. Mr. Melanson: Dollars allocated should remain, though they could be used elsewhere.
- PYC moorings should be removed to avoid competition with business plan. Mr. Blake: Mooring fees paid this year, assessed on average size as is done at the KYC.
- Collection of water usage on docks? Mr. Blake: not 100%, but will increase over time; will enforce as much as possible and time permits.

Ms. Philbrook:

- She was nominated as the Fisherman's Advisory Committee liaison, and wishes to share this position with Steve Lawrence. Mr. Lawrence: Mr. Carson had Kelly cover Kittery Point and he covered Kittery.

Harbormaster: Contacted by owner of Frisbee Store offering to share dumpster, and will pay for the cost if allowed to share the KPA dumpster. Mr. Melanson: Not in favor at this time, given the existing legal issues with Mr. D'Amico. Ms. Philbrook and Mr. Lawrence: Not in favor. Mr. Smith: This was previously discussed and the KPA did not agree to a business arrangement with Mr. D'Amico.

Mr. Lawrence moved to not enter into any business agreement with Frisbee Holdings LLC in regard to a dumpster or anything else.

Ms. Philbrook seconded

Motion carried unanimously

Adjourned to Executive Session at 8:15 p.m.

11. Executive Session- Performance Evaluation

12. Adjourn

The Meeting of the Kittery Port Authority held May 1, 2014 ended at 9:38 p.m.
Submitted by Jan Fisk, May 26, 2014